

UNITED STATES DISTRICT COURT

for the

Western District of Virginia

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA

FILED
for Danville
AUG 04 2008

United States of America)

v.)

SHAWN DEMETRIUS FAULKNER)

Date of Previous Judgment: 3/10/04)

(Use Date of Last Amended Judgment if Applicable))

Case No: 4:03cr70054-001

USM No: 10026-084

Defendant's Attorney

JOHN F. CORCORAN, CLERK
BY: *Fay Coleman*
DEPUTY CLERK

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: _____

Amended Offense Level: _____

Criminal History Category: _____

Criminal History Category: _____

Previous Guideline Range: _____ to _____ months

Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
☐ Other (explain): _____

III. ADDITIONAL COMMENTS

Defendant was convicted of "crack" cocaine offenses in violation of 21 U.S.C. § 841. Although Amendment 706 to the U.S. Sentencing Guidelines reduced the offense levels for most crack convictions, it did not reduce the applicable statutory minimums. Accordingly, 18 U.S.C. § 3582(c)(2) does not allow a court to reduce a sentence below an applicable statutory minimum, regardless of the offense level. Because Defendant's 120 month sentence on his crack convictions is the statutory minimum, he is not eligible for a sentence reduction under 18 U.S.C. § 3582(c)(2).

Except as provided above, all provisions of the judgment dated _____ shall remain in effect.

IT IS SO ORDERED.

Order Date: August 4, 2008

Norman K. Moon
Judge's signature

Effective Date: _____
(if different from order date)

Norman K. Moon, United States District Judge
Printed name and title